UNITED NATIONS

General Assembly

FORTY-SEVENTH SESSION

Official Records

SIXTH COMMITTEE
14th meeting
held on
Thursday, 15 October 1992
at 10 a.m.
New York

SUMMARY RECORD OF THE 14th MEETING

Chairman: Mr. TOMKA (Czechoslovakia)
(Vice-Chairman)

CONTENTS

AGENDA ITEM 133: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)

This record is subject to correction.
Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, Room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

92-57020 6058S (E)

Distr. GENERAL
A/C.6/47/SR.14
22 October 1992

ORIGINAL: ENGLISH

/...

In the absence of Mr. Zarif (Islamic Republic of Iran), Mr. Tomka (Czechoslovakia), Vice-Chairman, took the Chair.

The meeting was called to order at 10.10 a.m.

AGENDA ITEM 133: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued) (A/47/33, A/47/67, A/47/60-S/23329, A/47/516)

1. Mr. KRIKORIAN (Armenia) said his delegation believed that the United Nations was only beginning to work in the manner originally envisioned; that renewed experiment should be given a chance to show results before the Charter was fundamentally changed. Furthermore, when the Charter was amended, a comprehensive list of amendments should be presented and voted upon all at once. Armenia had always had profound respect and hope for the United Nations, which was perhaps all the deeper because for many years it had not been a member. It supported the United Nations as the hub of an ever-improving international order which promoted peace and prosperity. The United Nations had efficiently addressed many problems. Its record during the cold war, however, had shown that if a major Power so wished it was relatively easy for the Organization to be placed in gridlock, a situation which could have terrible consequences: decisions were not made; peace and prosperity were ignored, innocent people caught up in armed conflicts suffered immeasurably, and public confidence in a sound international order disappeared. The United Nations could not afford a return to those days. Fortunately there was currently a growing acceptance of cooperation as opposed to confrontation.

2. Armenia believed that the increase in the number of Member States, in and of itself, had strengthened the United Nations. By extension, it favoured improvements geared towards further democratization, greater transparency in the Security Council, increased communication and cooperation among countries, and enabling the Organization to deal more directly with the myriad challenges it faced. Public confidence in the United Nations must be maintained and enhanced; to that end, clear standards must be consistently applied from one situation to the next, and Charter revisions must be treated with the utmost care.

3. Armenia agreed that the stature and use of the International Court of Justice should be enhanced; that too would strengthen the United Nations by building public confidence in the peaceful and equitable settlement of disputes.

4. Like many public institutions, the United Nations had been the object of eloquent praise and scorn. As lawyers and as representatives of countries acting with goodwill towards one another, members of the Committee should be able to address the issues before them in cooperation and with the shared goal of strengthening the United Nations.

5. Mr. BELLOUKI (Morocco) said that ideological antagonisms had largely disappeared from the international scene, and within the United Nations the stereotyped divisions of the past were fading away. The Summit Meeting of the Security Council in January 1992 had marked a turning-point in the life of the United Nations and demonstrated the determination of the international community to reinvigorate its role. The Agenda for Peace (A/47/277) and the report of the Secretary-General on the work of the Organization (A/47/1) reflected that commitment of the United Nations to the service of peace in the world. The concepts of preventive diplomacy, peacemaking, peace-keeping and peace-building remained the key elements of the United Nations.

6. The Agenda for Peace made it clear that the maintenance of international peace and security was the responsibility not only of the Security Council, but also of the General Assembly and the Secretary-General. It was therefore necessary to strengthen the organs of the United Nations, improve their operation and review their mechanisms with a view to increasing their efficiency and credibility and adapting them to the new realities. The revitalization of the United Nations must be accompanied by a redefinition of its activities and a new approach to world problems. Strengthening the role of the United Nations also meant recognizing its capacity to formulate appropriate solutions to the problems of underdevelopment, which remained a very serious threat to peace and security in the world. Member States must therefore help build the world partnership for development that the Secretary-General had advocated.

7. The Special Committee on the Charter of the United Nations and on the strengthening of the role of the Organization had an important role to play in adapting the Charter to the contemporary world; it must respect the balance of United Nations organs and ensure that the Charter was not covertly modified through improper unilateral interpretations.

8. Working paper A/AC.182/L.72 on the improvement of cooperation between the United Nations and regional organizations (A/47/33, para. 39) provided a good basis for future work. His delegation hoped that regional organizations which cooperated with the United Nations under Chapter VIII of the Charter would be able to take just and effective measures aimed at the prevention and settlement of conflicts and would be provided with the necessary resources for that purpose, particularly since that cooperation was potentially so wide-ranging. It also supported the idea of freedom of choice when having recourse to regional organizations.

9. Working paper A/AC.182/L.73 on assistance to third States affected by sanctions (A/47/33, para. 109) should deal with the question in a general manner, without reference to specific cases, which could, if necessary, be mentioned in a preamble. His delegation supported the approach of Chapter VII, particularly articles 49 and 50, and welcomed the recommendation made by the Secretary-General in the Agenda for Peace (A/47/277, para. 41) that as a matter of equity the Security Council should devise a set of measures involving the financial institutions and other elements of the United Nations system to insulate States from difficulties they might suffer as a result of the application of sanctions.

(Mr. Bellouki, Morocco)

10. The draft United Nations rules for the conciliation of disputes between States (A/47/33, para. 132) should be flexible and applicable to all types of disputes; some of the provisions were too detailed or too categorical. In particular, conciliators needed to be given greater autonomy in decision-making.

11. The Special Committee's role in implementing the programme of the United Nations Decade of International Law should be strengthened, and its composition should be reviewed so as to strengthen its effectiveness and ensure that it was in no way a closed club.

12. Mr. KHARRAZI (Islamic Republic of Iran) said that concurrent, rapid and fundamental changes in international relations entailed both new opportunities and new challenges for the international community as a whole. In the emerging plural and cooperative atmosphere, that community was aspiring to a new era of inter-State relations based on the principles incorporated in the Charter of the United Nations; at the same time, new regional conflicts and fresh hazards were seriously threatening international peace and security. The measures taken by the United Nations in recent years to maintain international peace and security were encouraging, and there was a renewed hope that the Organization would be able to function effectively, as envisaged by its founders.

13. The report of the Special Committee (A/47/33) indicated that while some members believed that the Charter was still relevant and applicable to the new international circumstances, others felt that in the light of dramatic changes in international relations, revision of the Charter had become inevitable. His delegation believed that the purposes and principles of the Charter remained valid and that, in the new international atmosphere, the United Nations could discharge its responsibilities in a satisfactory manner, on three conditions. First, equal opportunity should be given to all Members of the United Nations to participate fully in its activities; power politics, and confrontation or domination of major Powers over the United Nations, must be avoided. Democratization and transparency, as major characteristics of the emerging international system, should prevail in all United Nations bodies, as noted by the Secretary-General in his Agenda for Peace.

14. Second, all issues of an international nature should be addressed by the United Nations, and it should render equal treatment to all cases of threats to international peace and security and avoid political expediency and selectivity. Double standards should be avoided and earlier negligence should be rectified. The time was propitious for the United Nations to address the North-South agenda; if that issue was not considered conscientiously, international peace and security would be threatened.

15. Third, a new balance needed to be achieved among the principal organs of the United Nations. The General Assembly was entitled to consider all problems of common concern to the international community, and must not be

(Mr. Kharrazi, Islamic Republic of Iran)

sidelined in cases of threats to international security. The Security Council, in discharging its functions in respect of the maintenance of international peace and security, must observe the provisions of the Charter as well as international law. In accordance with the Charter, the Security Council was accountable before the international community, represented in the General Assembly. It should be noted that failure to revitalize the United Nations in consonance with the changes in the world would strengthen revisionist tendencies.

16. With regard to working paper A/AC.182/L.72 on cooperation between the United Nations and regional organizations (A/47/33, para. 39) he noted that regional organizations constituted an integral part of the collective security system embodied in the Charter; Chapter VIII established very clearly the relationship between the United Nations and regional organizations, and the future instrument should therefore focus on the practical aspects of cooperation between them. To that end, experts from regional organizations should be invited to the Special Committee to explain their experiences with respect to settlement of disputes, as well as their views on potential cooperation between their organizations and the United Nations. Since regional organizations were not equally developed in all parts of the world, the future document needed to encourage cooperation at the regional level and should be flexible enough to cover a wide range of possible cooperation between the United Nations and regional organizations.

17. Although working paper A/AC.182/L.73 on assistance to third States affected by sanctions (A/47/33, para. 109) was of a general nature and did not provide any specific proposals, it did reflect the importance and urgency of the question to developing countries. His delegation urged the Special Committee to prepare guidelines concerning the implementation of Articles 49 and 50 of the Charter, taking into account the experiences of the Security Council Committee established pursuant to resolution 661 (1990) concerning the situation between Iraq and Kuwait, as well as the effects of previous embargoes imposed by the United Nations.

18. On the question of authorizing the Secretary-General to request advisory opinions from the International Court of Justice (A/47/33, paras. 31-32) his delegation was not convinced that such authorization to individuals was permissible under the Charter. Its understanding of Article 96, paragraph 2, together with Article 7 of the Charter, and of Article 65, paragraph 1, of the Statute of the International Court of Justice, was that such authorization could only be granted to the deliberative bodies of the United Nations. The practice of the General Assembly in granting authorization to United Nations bodies, as well as specialized agencies, affirmed that point.

19. His delegation urged the Special Committee to consider and finalize the draft United Nations rules for the conciliation of disputes between States (A/47/33, para. 132) as another step towards strengthening the principle of peaceful settlement of disputes between States.

20. Mr. NEUHAUS (Australia) said that Australia, as a founding Member of the United Nations, had contributed to the original drafting of the Charter, which provided the basis for the United Nations to carry out its mandate to promote international peace and security. However, Member States retained the responsibility to ensure that the Organization was effective and must strive to develop, within the framework of the Charter, the capacity of the United Nations for preventive diplomacy, peacemaking and peace-keeping. The possibilities which could be explored in that regard had been highlighted by the Secretary-General in his Agenda for Peace.

21. With regard to working paper A/AC.182/L.72 on cooperation between the United Nations and regional organizations (A/47/33, para. 39), which provided a useful basis for the Special Committee's work, his delegation agreed that regional organizations had an important role to play in the area of preventive diplomacy; they could help to create conditions which minimized insecurity and threats to peace, and enabled specific high-risk situations to be addressed before they reached the point of requiring peace-keeping or, worse still, coercive peace enforcement responses. The Special Committee should give particular consideration to the most appropriate division of labour between the United Nations and regional organizations in undertaking peacemaking and peace-keeping efforts, and to the possibility of developing guidelines which would help avoid duplication of effort and enable regional organizations to consider how they might adapt, if necessary, to such a role. His delegation believed that there was a role for regional organizations in addressing both military and non-military threats to international peace and security; one particular non-military threat was that posed by the failure of Governments to observe the fundamental standards of human rights as set out in the Universal Declaration of Human Rights and in the International Covenants.

22. His Government had long advocated an increased acceptance of the compulsory jurisdiction of the International Court of Justice under Article 36, paragraph 2, of its Statute and endorsed the Secretary-General's recommendation to that effect in the Agenda for Peace. Australia was also open to the proposal that the Secretary-General should be authorized under Article 96, paragraph 2 of the Charter to seek advisory opinions from the International Court of Justice. It commended the Special Committee's useful work on the draft United Nations rules for the conciliation of disputes between States.

23. As to its future work, the Special Committee should consider some aspects of the Secretary-General's Agenda for Peace recommendations, for example his proposals on the role of regional organizations and of the International Court of Justice.

24. Mr. PATRONAS (Greece) said that since the maintenance of international peace and security was by far the most important issue dealt with in the Charter, every effort to enhance the Organization's role in that respect was to be encouraged. In that connection, he welcomed the Secretary-General's report entitled "An Agenda for Peace" (A/47/277), which contained highly interesting proposals which should be considered with the closest attention.

(Mr. Patronas, Greece)

25. Working paper A/AC.182/L.72 on the improvement of cooperation between the United Nations and regional organizations (A/47/33, para. 39) represented a timely initiative whose underlying ideas were acceptable and would provide a useful basis for discussion. However, as indicated in the Special Committee's report (A/47/33, para. 46), further background information concerning the relationship between the United Nations and regional organizations would assist the Special Committee in its consideration of the working paper.

26. Working paper A/AC.182/L.73 on assistance to third States affected by sanctions (A/47/33, para. 109) also provided useful material for reflection, although the issues it raised must be treated with caution, and in the light of the relevant provisions of the Charter.

27. The current world situation favoured a decisive approach to the question of strengthening the collective security system envisaged in Chapter VII of the Charter. In that connection, his delegation wished to reiterate the proposal it had made at previous sessions of the Sixth Committee and the Special Committee, namely that the question of collective security should be examined as a global concept, as the only one of the three fundamental principles on which the United Nations system was based that had not been studied in detail. The other two had been examined and embodied in two relevant Declarations - the Manila Declaration on the Peaceful Settlement of International Disputes, and the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations. A further declaration should now be contemplated which would affirm the principles governing collective security and the guidelines concerning the relevant rights and obligations of Member States and the responsibilities of United Nations organs. Such a declaration could constitute an important contribution by the Special Committee to the Decade for International Law.

28. Attention should also be focused on the extremely serious problem of deliberate disregard for, and systematic violation of, United Nations decisions concerning international peace and security. It was deplorable and inadmissible that such decisions were not respected, as in the case of those relating to the Republic of Cyprus.

29. In connection with the peaceful settlement of disputes between States, his delegation welcomed the draft rules on conciliation submitted by Guatemala (A/47/33, para. 132). In considering those rules the Special Committee should take into account related developments in other bodies, and in particular within the framework of the Conference on Security and Cooperation in Europe, where encouraging results had already been obtained with regard to the establishment of a compulsory conciliation mechanism. With regard to the specific proposals submitted by Guatemala, his delegation considered firstly, that in article 1 the rules should apply to all types of disputes. Secondly, in article 18, the principles of international law should be included among

(Mr. Patronas, Greece)

the principles which would serve as guidelines for the conciliation commission, and thirdly, his delegation agreed with the views of the Legal Counsel regarding article 2, paragraphs 2 and 4.

30. Mr. D'ALMEIDA (Togo) said that the question of strengthening the role of the United Nations had assumed particular prominence with the end of the cold war. However, although the polarized situation that had characterized international relations had disappeared, regional conflicts were gaining momentum in many parts of the world. In order to resolve such conflicts, close cooperation should be established between the United Nations and regional organizations in order to ensure that initiatives at regional level provided a coherent and effective backup for action by the United Nations, and vice versa.

31. In that context, working paper A/AC.182/L.72 submitted by the Russian Federation (A/47/33, para. 39) made a number of useful suggestions which would merit more detailed study, and in particular the suggestion in paragraph 7 that States should consider the possibility of strengthening the preventive functions of regional organizations.

32. In that connection, his delegation also welcomed the Secretary-General's comments on preventive diplomacy and peacemaking contained in document A/47/277. It found particularly interesting the Secretary-General's proposal for the participation of the General Assembly in efforts aimed at mediation, negotiation or arbitration. Although the Organization had achieved greater success in the field of peace and security, a regional approach had in some cases made a salutory contribution to preventing disputes between Sates.

33. In connection with the rationalization of the Organization's existing procedures, his delegation agreed with many others that developments in the international community made necessary certain adjustments in the principal organs of the Organization, and particularly in the Security Council, in order to ensure greater participation by the various regions of the world in the decision-making process. The provisions of the Charter must not be applied selectively; moreover, the United Nations must demonstrate credibility and impartiality in all domains. The strengthening of the Organization's role must proceed rapidly if it was to take into account the new configuration of the international community and the world-wide aspiration to democracy.

34. His delegation took a favourable view of the Secretary-General's suggestion that he should be authorized to seek advisory opinions from the International Court of Justice, since that would enable him to perform his functions more effectively while enhancing the Court's contribution to the strengthening and development of international law. The new atmosphere in international relations would also encourage States to accept the compulsory jurisdiction of the Court. With the same objective of promoting respect for the principles of the Charter and international law in view, his delegation welcomed the appearance of the Handbook on the Peaceful Settlement of Disputes between States.

35. Mr. PETROV (Bulgaria) noted that the majority of the issues dealt with in the Secretary-General's report entitled "An Agenda for Peace" (A/47/277) fell directly within the competence of the Special Committee. In the context of the global changes to which the Secretary-General had drawn attention, it was appropriate that many delegations during the general debate at the most recent session of the Special Committee should have made far-reaching proposals in an attempt to identify the most appropriate means for strengthening the Organization. However, his delegation found it disturbing that some of those proposals envisaged a revision of the Charter of the United Nations in order to change the existing balance of competence between the two principal organs of the Organization, namely the General Assembly and the Security Council. Such an approach was especially harmful at a time when the Security Council had begun to discharge its functions effectively under the Charter. His delegation took the view that the provisions of the Charter were sufficiently flexible, and that it should be applied and interpreted as a constitutional document.

36. His delegation welcomed the proposal that the General Assembly should authorize the Secretary-General to request advisory opinions from the International Court of Justice. His delegation reiterated its full support for that proposal, which would considerably increase the efficiency of the Secretary-General's efforts in the peaceful settlement of disputes.

37. The draft declaration submitted in working paper A/AC.182/L.73 (A/47/33, para. 39) was also timely, since the interaction between the United Nations and regional arrangements and agencies in the maintenance of international peace and security was crucial for the effective functioning of the United Nations system of collective security. Effective action in settling disputes and conflicts was to be expected from States in the same region and from the regional arrangements or agencies concerned; if the relationship between regional arrangements or agencies and the United Nations, and the Security Council in particular, was efficient, those agencies could become an important source of information and expertise.

38. His delegation shared the view that the language of the draft should be brought into line with that of Chapter VIII of the Charter. The basis for the interaction between the United Nations and regional organizations was to be found in Article 52, whose underlying concept was that regional organizations and agencies should function within the framework of the global Organization responsible for peace and security and should be subject to the same overriding purposes and principles. It was therefore clear that the scope of the draft declaration should be confined to regional arrangements or agencies dealing with the maintenance of regional peace and security.

39. Noting that neither the General Assembly nor the Security Council had found it necessary or desirable to attempt to define what constituted regional arrangements or agencies, his delegation believed that the draft declaration should focus on achieving viable cooperation between the United Nations itself and regional agencies: it should not attempt to create obligations for

(Mr. Petrov, Bulgaria)

regional agencies, as it appeared to be doing in paragraphs 5 to 7. While restating several general principles contained in Chapter VIII of the Charter the draft declaration contributed sevral useful and pertinent ideas, particularly in paragraphs 8, 10, 17, 19 and 20, and could provide a basis for revitalizing the provisions of Article 54 of the Charter. The purpose of that Article had not in practice been fully achieved, in that information supplied to the Security Council had been largely limited to the texts of resolutions and other documentary materials, whereas the language of Article 54 suggested that much more detailed reporting was envisaged.

40. The time had come to conclude cooperation agreements between the United Nations and regional arrangements or agencies dealing with matters relating to the maintenance of international peace and security. Such agreements might be concluded by the Security Council, and in that context recourse might be had to the experience of the Economic and Social Council under Article 63 of the Charter. In particular, an agreement between the United Nations and the Conference on Security and Cooperation in Europe would be welcome.

41. As one of the countries submitting working paper A/AC.182/L.73 on assistance to third States affected by the application of sanctions (A/47/33, para. 109), Bulgaria wished to state that it was not the intention of the submitting delegations to use Article 50 as a precondition for discharging their obligations under the respective Security Council resolutions in compliance with Article 25 of the Charter. Their belief was that the only purpose of enforcement of sanctions under Article 41 should be to punish the guilty, and not innocent third parties. Assistance to those parties when confronted with special economic problems should be regarded as a means for strengthening cooperation in the application of measures against an offender State.

42. Several points were essential for future consideration of the working paper. Firstly, assistance should only be sought in order to remedy the secondary effects of sanctions on third States. Secondly, Article 50 referred to "special economic problems", and it was obvious that the special character of those problems must be established, a task which might be carried out by such bodies as the International Monetary Fund or the World Bank. The costs of such assistance, in his delegation's view, should be borne by the offender State, and an important precedent in support of that approach had been set by Security Council resolution 778 (1992). Different means might be used to provide the necessary funds, for example by the setting up of a compensation fund or by freezing the assets of the offender State.

43. Turning in conclusion to working paper A/AC.182/L.65 and Corr.1, entitled "New issues for consideration in the Special Committee", he said that his delegation favoured the drawing up of an agenda for the future work of the Committee. In that connection, the Secretary-General's report on "An Agenda for Peace" had highlighted a number of issues which had duly been reflected in the working paper.

44. Mr. DELON (France) noted that since the Special Committee's latest session, the Secretary-General had submitted his report entitled "An Agenda for Peace" (A/47/277) containing a series of important recommendations, some of which could usefully be taken up by the Special Committee.

45. In the field of international peace and security, the Special Committee had considered a working paper on cooperation between the United Nations and regional organizations (A/AC.182/L.72) which had the merit of emphasizing the place that could and should henceforth be occupied by the regional organizations in the collective security system. His delegation supported the enlarged vision of security as made up of economic, political and humanitarian components presented by the document.

46. For too long, the roles of the United Nations and the regional organizations had been regarded as alternatives, whereas they were deeply complementary. The regional organizations were a part of the Charter's collective security system, within which the Security Council had the primary responsibility for the maintenance of international peace and security. The spread of ethnic rivalries and regional conflicts over the past few years had brought some of the regional organizations into the front line of preventive diplomacy, peace-keeping, peacemaking and humanitarian assistance. A tragic example was that of the former Yugoslavia, in which the European Community and the Conference on Security and Cooperation in Europe had played and continued to play a very important role with regard to the resolution of the crisis and the alleviation of the sufferings of the populations. They were doing so, it must be emphasized, both within the framework of their own responsibilities and at the request of the Security Council. Mention should also be made of the role of OAU in Somalia, that of OAS in Haiti and that of ECOWAS in Liberia.

47. The Secretary-General had devoted an entire chapter of his "Agenda for Peace" to cooperation between the United Nations and the regional organizations, and had made a series of recommendations on the subject which should, in his delegation's view, be considered by the Special Committee in conjunction with working paper A/AC.182/L.72. His delegation also considered that the resolution to be adopted by the Sixth Committee might invite Member States to inform the regional organizations to which they belonged of the work of the United Nations on the subject and to transmit their comments and suggestions to the Special Committee.

48. In connection with another aspect of its work relating to international peace and security, the Special Committee had considered working paper A/AC.182/L.73, on assistance to third States affected by the application of sanctions under Chapter VII of the Charter (A/47/33, para. 109). His delegation was in favour of a more effective response to the situation of States indirectly affected by the measures envisaged under Article 50 of the Charter, particularly as the number of those measures had greatly increased recently. However, it doubted whether the establishment of permanent machinery operating to a certain extent automatically constituted the most relevent response to the problems involved. As each case was special, the

(Mr. Delon, France)

question should be considered in the light of the work carried out within the framework of the Security Council Committee established pursuant to resolution 661 (1990), which showed a preference for a settlement of problems on a case-by-case basis. In any event, the Special Committee should continue its study of the subject and, in that connection, his delegation welcomed the announcement that a revised version of the working paper would be submitted at the Special Committee's next session.

49. The Special Committee should also continue its study of the important question of the peaceful settlement of disputes between States, and his delegation hoped that the Guatemalan delegation would be able to submit a revised text of its rules for the conciliation of disputes between States at the Special Committee's next session.

50. Although the Secretary-General's proposal that he should be authorized to request advisory opinions from the International Court of Justice was attractive in many ways, his delegation agreed that its implementation would involve a number of political and legal difficulties. The question was complex and should continue to be given serious study in all its aspects; the Special Committee seemed the most appropriate place in which to do so. The Special Committee should also give attention to those parts of the Secretary-General's "Agenda for Peace" which dealt with various aspects of the peaceful settlement of disputes, including negotiation, mediation, good offices, arbitration and resort to the International Court of Justice.

51. Mrs. VALDES (Cuba) said her delegation attached great importance to the full and effective implementation of Article 50 of the Charter, especially at a time when the use of sanctions by the Security Council was expanding. It therefore hoped that the Special Committee would continue its consideration of working paper A/AC.183/L.73 on assistance to third States affected by the application of sanctions (A/47/37, para. 109), of which Cuba was a sponsor, with a view to concluding its work on it at the next session.

52. In the past few years, great changes had taken place in the world. Traditional enemies had moved from confrontation to cooperation, but the developing world was experiencing a time of uncertainty and disquiet. The cold war had ended but the gap between rich and poor had widened. It was therefore important to begin to analyse the legal implications of the changes that had taken place in international relations. In a world governed by international law instead of the law of the strongest, the United Nations was called on to play a primary role, but it could only do so if the structures established long ago were modernized and brought into conformity with existing circumstances. To that end, a balance must be established between the principal organs of the Organization, particularly the General Assembly and the Security Council. The unprecedented expansion of the Council's activities had given rise to justified concern on the part of the international community with respect to the role of that body and the use to which it was being put. The Security Council should not only refrain from exceeding the functions it

(Mrs. Valdes, Cuba)

had been assigned but provide the General Assembly, an organ to which it was responsible, with substantive reports which would make possible full discussion of its work. It should not be forgotten that the General Assembly was the most democratic organ of the United Nations, in which all Member States participated as equals. The strengthening of the role of the Assembly was essential in order to avoid leaving the power of decision on questions of transcendent importance, such as those relating to world peace, solely in the hands of a minority which was becoming increasingly less representative of the membership of the Organization as a whole.

53. Her delegation therefore considered that the Special Committee should review the way in which the respective roles and functions of the Council, the Assembly and the Secretariat were being carried out, as well as the relationships between those organs with regard to the maintenance of international peace and security, in order to bring them into line with current realities. Both the composition and the current functioning of the Security Council should be reviewed with a view to making them more democratic and more truly representative of the interests of the international community as a whole.

54. Those and other considerations had led her delegation to submit the working paper appearing in paragraph 123 of the Special Committee's report. The democratization of the United Nations was all the more necessary at a time when some had begun to question principles which were the very foundation of relations between independent States, such as those of sovereignty and non-interference in the domestic affairs of States.

55. Mr. DASTIS (Spain) said that document A/47/33 had demonstrated once again the Special Committee's capacity to deal with the fundamental questions which the United Nations was facing in its efforts to maintain international peace and security. During the Special Committee's latest session, his delegation had noted the fundamental role which the Special Committee could play in the fulfilment of the objectives set out in the Secretary-General's report "An Agenda for Peace" (A/47/277); many of the initiatives for strengthening the Organization which were mentioned in that report had been included in the Special Committee's programme of work.

56. In the field of preventive diplomacy, the Special Committee had elaborated the Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field and the Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security, of which his delegation had been a sponsor. Both Declarations contained suggestions and recommendations which should be developed, provided that the will to do so existed on the part of States; in particular, the references to fact-finding activities by the Secretary-General could be the starting-point for improving the information-gathering capabilities of the Secretariat and enhancing the Secretary-General's ability to provide early warning of disputes or situations which might threaten international peace and security.

(Mr. Dastis, Spain)

57. The ever-growing demands which the United Nations faced in the field of peace-keeping were placing a heavy strain on its human and material resources. In order to alleviate that burden, full advantage should be taken of the provisions of Chapter VIII of the Charter relating to the participation of regional organizations in the maintenance of international peace and security.

58. In his report "An Agenda for Peace", the Secretary-General had made a number of suggestions for giving regional organizations a greater role in peace-keeping and enhancing cooperation between them and the United Nations. More recently, in his report on the work of the Organization (A/47/1), the Secretary-General had noted that regional organizations could play a crucial role if their activities were undertaken in a manner consistent with the principles of Chapter VIII, although the exact modalities of the division of labour between them and the United Nations remained to be worked out. In his view, document A/AC.182/L.72 (A/47/33, para. 39) helped to define that division of labour. Not only should the contribution which regional organizations could make to peace-keeping be recognized, but States should be encouraged to establish functionally and structurally balanced regional organizations capable of taking effective action, as provided for in paragraph 1 of the working paper.

59. Member States, especially the least developed among them, were also finding that the maintenance of peace and security placed a strain on their resources. The implementation of the preventive or enforcement measures provided for in Chapter VII of the Charter had created economic difficulties which could not be overlooked. The Charter itself did not adequately address such problems; Article 50 merely envisaged the right of States confronted with special economic problems arising from the carrying out of such measures to consult the Security Council with regard to a solution. Document A/AC.182/L.73 (A/47/33, para. 109), of which his country was a sponsor, was an attempt to fill that gap.

60. Although the sanctions committees established by the Security Council were competent to make recommendations to the Council on a case-by-case basis in connection with Article 50 of the Charter, such recommendations should be followed by effective measures; the Economic and Social Council and the United Nations agencies specializing in economic matters could cooperate to that end.

61. The best means of maintaining peace and security was to settle disputes peacefully before they erupted into armed conflicts. Accordingly, the Charter offered a wide array of means for the resolution of conflicts. In the report "An Agenda for Peace", the Secretary-General placed special emphasis on strengthening the International Court of Justice and on the need for greater reliance on the Court by States. Spain had recently demonstrated its reliance by recognizing the compulsory jurisdiction of the Court and by contributing, for the past two years, to the Trust Fund established to assist countries unable to afford the cost involved in bringing a dispute to the Court.

(Mr. Dastis, Spain)

62. Likewise, Spain supported the Secretary-General's proposal that he should be authorized to request advisory opinions of the Court on legal questions arising within the scope of his activities, and believed that satisfactory solutions could be found to any difficulties which might arise in that connection. The statement made by the Legal Counsel at the recent session of the Special Committee had greatly clarified the objectives of the proposal and the reasons behind it. A statement to the effect that the submission of a dispute to the Court required the prior consent of the parties to the dispute would greatly facilitate the acceptance of the proposal. Furthermore, as he understood it, the proposal would not involve any amendment to Article 96 of the Charter. Although the Article referred to authorization being given to "organs" of the United Nations, there was nothing to prevent the Secretary-General from also being so authorized.

63. Turning to the draft United Nations rules for the conciliation of disputes between States (A/47/33, para. 132), which his delegation supported, he said that States were generally reluctant to resort to conciliation and to intervention by a third State in their disputes. Accordingly, his delegation believed that the draft should be viewed as part of a flexible procedure which would encourage States to resort to conciliation, provided with alternative options or methods, and given assistance with regard to both the procedural and substantive aspects of dispute settlement. In that context, the Secretariat could play an important role in opening channels of communication between the parties.

64. While his delegation believed that it would be premature to adopt a decision on the future programme of work of the Special Committee at a time when its agenda was full, he urged the Special Committee to focus on some of the specific suggestions contained in the report "An Agenda for Peace".

65. Mr. MBURI (United Republic of Tanzania) said that the views expressed during the latest session of the Special Committee reflected the feeling of most Member States on the questions of the maintenance of international peace and security and the peaceful settlement of disputes between States. Much had been said about the need to review and amend the United Nations Charter, in order to take account of the fundamental changes in the international situation and the needs of the emerging new world order. Charter revision had the support of many Member States, not merely because Charter provisions had become obsolete or difficult to implement but also in order to achieve greater equality, justice and efficiency. It was important that those who had given their loyalty to the Charter should be able to have confidence in the functioning of the organs created by it. At the Summit Meeting of the Security Council on 31 January 1992, the importance of strengthening the Charter by implementing its provisions had been stressed, but reference had also been made to the need to review the Charter.

66. His delegation felt that as a first step, all possible areas for review should be listed. From that list, a few non-controversial areas requiring

(Mr. Mburi, United Republic of Tanzania)

immediate attention could be identified, for example, the need to eliminate the provisions referring to "enemy States". The questions of the composition of the Security Council and its decision-making procedures might then be considered. Discussion should be opened on matters such as the membership of the Security Council, its transparency and the use of the veto. The question of exercising a veto by regional groupings was a possible option, as was that of making decisions by consensus.

67. The fact that the Security Council had performed very well in the recent past did not eliminate the legitimate concerns of the majority of Member States about its composition. The large increase in the number of Members of the Organization and the rising demand for democracy in every aspect of human activity underscored the urgent need for Charter review. It was absurd to undertake reforms in selected areas of the Organization while ignoring the need for the review of a primary organ dealing directly with international peace and security. His delegation would suggest that reform of the Security Council should be included in the agenda of the working group of the General Assembly which was to be set up to deal with the Agenda for Peace.

68. Adequate powers should be given to the General Assembly or its role strengthened even further. Its relationship with the Security Council should also be modified so as to enable the Assembly to assume more decision-making capability.

69. It was appropriate to give the Secretary-General authority to seek an advisory opinion from the International Court of Justice, provided that the authority was exercised in situations where the Secretary-General was not, at any stage, a party to a dispute, for example, one that would be decided by the United Nations Administrative Tribunal and which, in many instances, would go before the Committee on Applications for Review of Administrative Tribunal Judgements. His delegation continued to believe that granting the authority on an ad hoc basis only was a good alternative despite the Legal Counsel's view that such authorizations would not achieve the goal fully and were difficult to operate in practice.

70. The Russian Federation was to be commended for its initiative in submitting working paper A/AC.182/L.72, containing the "Draft declaration on the improvement of cooperation between the United Nations and regional organizations" (A/47/33, para. 39). The topic was a timely one, but the proposal incorporated too many issues, giving emphasis to some while ignoring others. His delegation suggested that the title should be modified to read "Draft declaration on the improvement of cooperation between the United Nations and regional organizations in the maintenance of international peace and security" in order to reflect the intent of the proposal more accurately.

71. Chapter VI of the Secretary-General's report entitled "An Agenda for Peace" provided a good summary of the system for cooperation with regional arrangements and organizations. It might be added that though primary

(Mr. Mburi, United Republic of Tanzania)

responsibility for the maintenance of international peace and security lay with the Security Council, regional organizations should be allowed to exercise discretion in dealing with a matter within their region if it was necessary to defuse an explosive situation even before the Security Council intervened.

72. The other working paper submitted by the Russian Federation, entitled "New issues for consideration in the Special Committee" (A/AC.182/L.65 and Corr.1), was also welcome. Care should, however, be taken to avoid the duplication of work already undertaken or being considered elsewhere, such as the preparation of a general instrument on the peaceful settlement of disputes, which would duplicate the material in the Secretary-General's Handbook on the subject, or ways of expanding cooperation between the United Nations and regional organizations, which could be dealt with in the proposal dealing specifically with that subject.

73. His delegation also supported working paper A/AC.182/L.73, on assistance to third States affected by the application of sanctions (A/47/33, para. 109). Its usefulness was obvious, as recent experiences had shown how third States had been affected by economic sanctions imposed on a State under Article 50 of the Charter. What was needed was specific proposals on how such assistance could be extended through a guaranteed arrangement such as the establishment of the proposed fund of mandatory contributions.

74. His delegation had already referred to the need to review the relationships between the organs of the United Nations with a view to democratizing them. The Cuban proposal on the strengthening of the role of the Organization and enhancement of its efficiency was highly commendable from that point of view. His delegation agreed that there was a need to formulate guidelines or recommendations on the matters listed by Cuba. The fact that the Cuban proposal raised extremely sensitive issues should not deter Member States from effecting changes that were necessary and would serve the interests of the international community.

75. His delegation also noted with satisfaction the progress made with regard to the draft United Nations rules for the conciliation of disputes between States (A/47/33, para. 132). It commended the Guatemalan delegation on its initiative and hoped that it would have a revised draft ready for a second reading at the next session of the Special Committee.

76. Mr. VOICU (Romania) said that there was clearly a close relationship between the Secretary-General's report "An Agenda for Peace" (A/47/277) and the report of the Special Committee (A/47/337). The Secretary-General's report was a comprehensive step towards strengthening the United Nations and contained a wealth of suggestions which were of particular value for the Special Committee's current and future work.

(Mr. Voicu, Romania)

77. His delegation welcomed the submission by the Russian Federation of document A/AC.182/L.72 (A/47/33, para. 39), which reflected the need of both the United Nations and regional organizations to play a greater role in the maintenance of international peace and security, particularly through preventive diplomacy. The time had come to revitalize Chapter VIII of the Charter by studying practical means of encouraging cooperation between such organizations and the United Nations in the prevention and settlement of regional conflicts.

78. With regard to the need for a precise definition of the concept of preventive diplomacy, as had been mentioned during the consideration of the document in the Special Committee, he drew attention to the suggestion made by the Secretary-General in paragraph 20 of his report. There was no conflict between the Special Committee's approach and that of the Secretary-General; on the contrary, there was consistency between the conclusions reached in the two reports.

79. The activities of the United Nations and those of regional organizations must be complementary; in that context, the broad language in Chapter VIII provided a foundation on which to build. Consultations between the United Nations and regional organizations could do much to bring about international consensus on the nature of a problem and the measures required to address it, particularly in the post-cold-war era. Accordingly, his delegation shared the hope expressed by other delegations that, in the future, the Conference on Security and Cooperation in Europe (CSCE) would be effective in preventing conflicts throughout Europe.

80. It was to be hoped that the suggestions made by various delegations would be taken fully into account in the revised version of the document to be submitted in 1993, and that greater emphasis would be placed on practical means of improving cooperation between the United Nations and regional organizations.

81. With regard to document A/AC.182/L.73 (A/47/33, para. 109) he drew attention to paragraph 115 of the Special Committee's report. The sponsors of the revised version of the document had invited the Secretary-General to address such questions as sharing the costs of a system of collective security, the principle of "mutual assistance", and the need for studying specific techniques for providing assistance to States affected by the implementation of sanctions within the context of his recommendations on ways of strengthening the capacity of the United Nations for preventive diplomacy, peacemaking and peace-keeping. His delegation noted with satisfaction the recommendation made by the Secretary-General in paragraph 41 of his report "An Agenda for Peace" that the Security Council should devise a set of measures involving the financial institutions and other components of the United Nations system that could be put in place to insulate States from such difficulties.

(Mr. Voicu, Romania)

82. His Government supported the establishment of a special fund, to be administered by the Security Council, which could be used to assist countries economically affected by the imposition of sanctions. The existence of such a fund would encourage States to cooperate with the Council in situations of crisis management. As noted in paragraph 8 of the document, the problems affecting those countries persisted, and in certain respects had been aggravated, while the appeals launched pursuant to the recommendations of the Security Council Committee established under resolution 661 (1990) and addressed to all concerned by the Secretary-General, had not evoked responses commensurate with the urgent needs of the affected countries. Accordingly, his delegation believed that the question should remain under review in the Sixth Committee and in other relevant Main Committees, with a view to finding practical solutions. In the meantime, it was to be hoped that the Security Council would devote full attention to the issue. His Government further supported the suggestion made by the representative of Czechoslovakia that analytical information on the existing experience and practice of the United Nations, and in particular of the three sanctions committees established by the Security Council, should be made available to the Special Committee.

83. His delegation welcomed the submission by Guatemala of document A/45/742 (A/47/33, para. 132), which was a positive contribution to the development of mechanisms for the prevention and peaceful settlement of disputes between States. In view of the length and complexity of the document, it was to be hoped that in 1993 Guatemala would submit a revised draft taking into account the many suggestions and observations. The draft should be harmonized with the document on resort to a commission of good offices, mediation or conciliation within the United Nations (General Assembly decision 44/415, annex).

84. Lastly, it was to be hoped that informal consultations in the Sixth Committee would result in a clear mandate for the Special Committee's 1993 session, thus enabling the Special Committee to make tangible progress on all items on its agenda and to decide about new issues for consideration in the future.

The meeting rose at 12.40 p.m.